

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

KATHY SMITH,

Charging Party,

-v-

US INVESTIGATION SERVICES, MAGGIE
KELLER, TERRI ALWORTH & LONNA
DATELLO,

Respondents.

Case # 0081012921, 0081012922,
0081012923, 0081012924

ORDER

Kathy Smith (Smith) filed a complaint with the Department of Labor and Industry (Department) alleging that US Investigation Services et al (USIS) discriminated against her on the basis of disability and retaliated against her when she was laid off. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Smith's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Smith filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 26, 2009. Donald Ford Jones appeared and argued on Smith's behalf. Greg Black appeared and argued on behalf of USIS.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-*

2-511(3)(a), MCA. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Kathy Smith's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against U.S. Investigation Services et el.

DATED this ____ day of February, 2009.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of February, 2009.

DON FORD JONES
HOHENLOHE JONES PLLP
PO BOX 1959
HELENA MT 59624

TYLER BROWN
JACKSON LEWIS LLP
10701 PARKRIDGE BOULEVARD SUITE 300
RESTON VA 20191

GREGORY BLACK
CORETTE POHLMAN & KEBE
PO BOX 509
BUTTE MT 59703

Montana Human Rights Bureau